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10/707,054

11/18/2003

David Van Leeuwen

1053

7590

04/07/2006

David Van Leeuwen  
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EXAMINER

KAPLAN, HAL IRA

ART UNIT

PAPER NUMBER

2836

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/707,054

**Applicant(s)**

VAN LEEUWEN, DAVID

**Examiner**

Hal I. Kaplan

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
  - (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
  - (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
  - (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
  - (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
  - (f) BACKGROUND OF THE INVENTION.
    - (1) Field of the Invention.
    - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
  - (g) BRIEF SUMMARY OF THE INVENTION.
  - (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
  - (i) DETAILED DESCRIPTION OF THE INVENTION.
  - (j) CLAIM OR CLAIMS (commencing on a separate sheet).
  - (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
  - (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).
2. Applicant is reminded of the proper content of an abstract of the disclosure.

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A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

3. The disclosure is objected to because of the following informalities: Paragraph 1, lines 1 and 2 contain the abbreviations "PVC" and "SPST N/O". These should be written out before being used as abbreviations. Paragraph 1, line 5 and paragraph 2, line 5 contain the word "vehicle"s". It appears this should read "vehicle's". Paragraph 2, line 9 contains the phrase "battery disengages from system". It appears this should read "the battery disengages from the system".

Appropriate correction is required.

4. The disclosure is objected to under 37 CFR 1.71(a) because it does not contain a written description of the invention.

The specification does not describe or disclose the specific location of the power

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unit, the connections between the power unit and the container, maintaining vehicle power supply in the event of a relay, battery, or diode failure, the battery being replaceable, or surge protection.

5. The disclosure is objected to under 37 CFR 1.73 because it does not contain a brief summary of the invention. See MPEP §608.01(d).

6. The disclosure is objected to under 37 CFR 1.74 because it does not contain a brief description of the drawing. See MPEP §608.01(f).

7. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

The specification does not describe or disclose the specific location of the power unit, the connections between the power unit and the container, maintaining vehicle power supply in the event of a relay, battery, or diode failure, the battery being replaceable, or surge protection, as claimed in claims 2-5.

### ***Drawings***

8. The drawings are objected to because of the following informalities: The drawing does not use the proper electrical symbol for the diodes. The battery is labeled "rechargeable". It appears this should be "rechargeable". The label for the device enclosure printed strangely - "Enclosur e" should be "Enclosure".

9. The drawings are objected to under 37 CFR 1.84(u)(1). Where only a single view is used to illustrate the claimed invention, it must not be numbered and the abbreviation "Fig." must not appear. Corrected drawing sheets in compliance with 37

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CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

10. Claims 1-4 are objected to because of the following informalities: Claim 1, line 3 contains the phrase "using power unit". It appears this should read "using a power unit". Claim 2, line 1 contains the phrase "wherein unit". It appears this should read "wherein the power unit". Claim 2, line 2 contains the phrase "top or side container connections". It appears this should read "connected to the top or a side of the container". Claim 2, line 3 contains the phrase "wire run to". It appears this should read "a wire is run to the connection point". Claim 2, line 3 contains the phrase "connection point. ." It appears

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this should read "connection point." Claim 3, line 1 contains the phrase "wherein unit". It appears this should read "wherein the power unit". Claim 3, lines 1-2 contain the phrase "will maintain vehicle power supply". It appears this should read "will maintain its connection to the vehicle power supply". Claim 3 line 2, the phrase "the event" lacks proper antecedent basis. Claim 3, line 2 contains the phrase "relay/battery". It appears this should read "relay, battery". Claim 4, line 2 contains the phrase "unit battery". It appears this should read "and the unit battery". Appropriate correction is required.

### ***Oath/Declaration***

11. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It was not executed in accordance with either 37 CFR 1.66 or 1.68.

### ***Claim Rejections - 35 USC § 112***

12. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

13. Claims 2 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites the limitation "unit is conveniently located". Claim 4 recites the limitation "unit battery will be easily replaceable". The terms "conveniently" and "easily" are not defined in the specification, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. In addition, the specification states

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that the unit must be located "between the vehicle power supply and the electronic device" (see paragraph 1, lines 3-4).

14. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the connections and relationships between the container, battery, relay, diodes, and wiring in claim 1.

15. Claim 1 provides for the use of a power unit to supplement supply power, comprising a PVC container, a 12-volt rechargeable battery, a single-pull, single-throw normally open relay, 2 diodes, and wiring, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced. Claims 2-5 inherit this deficiency.

Claim 1 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966). Claims 2-5 inherit this deficiency.

#### ***Claim Rejections - 35 USC § 101***

16. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-5 are rejected under 35 U.S.C. 101 because the disclosed invention is inoperative and therefore lacks utility. The specification states that the device works by adding vehicle power to the battery power and sending the power to the electronic device (see paragraph 2, lines 6-8), and that when demand is low or normal, the battery is recharged (see paragraph 2, lines 8-11). However, as illustrated in the drawing figure, the output to the electrical device is not connected to the output (negative terminal) of the battery; so only vehicle power will be sent to the device. The output of the battery is connected to chassis ground. Both the vehicle power supply terminal and the terminal where the electrical device is connected are positive and are connected to the positive terminal of the battery; therefore, there will be no power delivered to the electrical device because the electrical device is connected with the wrong polarity. The electrical device connection terminal should be negative. When the vehicle power is turned on, the relay will close, the battery will be recharged from the vehicle power via both diodes, and vehicle power will be delivered directly to the electrical device without the addition of battery power.

In addition, relay coils require a series impedance in order to protect the coil from an over voltage condition.

Claims 1-5 are also rejected under 35 U.S.C. 112, first paragraph. Specifically, since the claimed invention is inoperative for the reasons set forth above, one skilled in the art clearly would not know how to use the claimed invention.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal I. Kaplan whose telephone number is 571-272-8587. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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